IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 22268 of 2007(A)

AGAINST THE ORDER IN EP.2551/2005 IN OS.3330/2004 of PRL.MUNSIFF COURT,THRISSUR
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PETITIONER:
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1. SETHUMADHAVAN V.R., CONSTABLE,
P.C.3317, GURUVAYOOR POLICE STATION,
S/O VELICHAPPATT RAMAKRISHNAN EZHUTHACHAN,
PUZHAKKAL VILLAGE, MUTHUVARA DESOM,
THRISSUR TALUK.

2. M.S.VIJAYAKRISHNAN, WORKING AT
K.S.E.B. KOTTAPPURAM,
S/O MUNDAYUR VALAPPIL SANKARAN EZHUTHACHAN,
MUTHUVARA DESOM, THRISSUR TALUK.

BY ADV. SRI.JIJO PAUL

RESPONDENTS:

NATIONAL UNION CHIT FUNDS,
PUZHAKKAL VILLAGE, THRISSUR TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 22268 OF 2007

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Dated this the 19th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order passed by the learned Principal Munsiff, Thrissur whereby he has directed to attach Rs.2,000/- and Rs.3,000/- respectively from the monthly salary of respondents 2 and 3. A perusal of the execution petition would reveal that the prayer is to proceed against the immovable property of the principal debtor and for a prayer to attach the salary of respondents 2 and 3.

2. I am informed that the writ petitioners were totally unaware of the orders of the Court because the case was posted for 23.7.07 and without notice to them it was advanced to 12.4.07 and without considering their objections attachment was ordered thereby they were totally prevented from putting forth the correct contention before the Court. If it is true, then necessarily the order has to be interfered with. When a case is posted and advanced necessarily notice

has to be given to all parties. Since it is not done and as the learned Munsiff has not considered how this amount can be attached by referring to the documents, I feel the order impugned is liable to be interfered with. Therefore, the order under challenge is set aside and the case is remitted back to the Principal Munsiff, Thrissur to consider the entire matter afresh after affording an opportunity to the writ petitioners to put forth their contentions and after hearing the decree holder. The learned Munsiff shall give notice of fresh enquiry to the decree holder as well.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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